

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14091 of Ronald L. Corbeille, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 3304.1) to construct an addition (rear deck) to a single family row dwelling in an R-3 District at premises 4413 Volta Place, N.W., (Square 1352, Lot 163).

HEARING DATE: January 25, 1984
DECISION DATE: February 2, 1984

FINDINGS OF FACT:

1. The subject premises is located on the north side of Volta Place, N.W. between 44th Street on the east and Foxhall Road on the west. The site is in an R-3 District and is known as premises 4413 Volta Place, N.W.

2. The subject site is primarily rectangular in shape with a triangular projection at the rear of the lot adjoining a public alley. The lot dimensions are 18.25 feet on the south, 73.15 feet on the east, 103.0 feet on the west and 34.98 on the northeast side. The lot area is 1,607 square feet.

3. The site is improved with a single-family row dwelling. The subject dwelling is a three-story brick structure with a long narrow footprint. The resulting rear yard is almost triangular in shape, with its fourth side approximately eight feet long.

4. There is access to and from the subject site through Volta Place on the south and through the public alley on the north.

5. The subject square and the surrounding area are developed with rowhouses and detached dwellings. Georgetown University is located approximately three blocks to the east. The area is zoned R-3 on all sides of the subject site.

6. The subject dwelling is part of the Foxhall Village development which utilizes curvilinear streets. A public alley enters the subject block at an acute angle, thus truncating the northeast corner of the subject lot. The rear yards of dwellings that adjoin the alley across

from the subject site have a direct view into the subject property, and vice versa.

7. The applicant purchased the subject dwelling several years ago. Since that time he has used it as a single family dwelling. The applicant finds that trees, grass and other plants are difficult to grow in the existing rear yard due to shade from surrounding dwellings. In order to make the rear yard more usable as an outdoor recreation space, the applicant proposes to construct a deck on which he could provide artificial landscaping.

8. The proposed deck would occupy approximately ninety percent of the existing rear yard. It would be constructed in three levels. Two of the deck levels would be less than four feet in height above the grade, as permitted by Paragraph 7602.21, and would require no variance relief. The third level adjoins the rear entrance of the dwelling and would be ten feet in height above grade at a level with the first floor. This third level of the deck requires variance relief because it is not a structure otherwise permitted to occupy a required rear yard and this reduces the depth of the rear yard.

9. The Zoning Regulations for an R-3 District require a rear yard measuring twenty feet in depth. The applicant is providing an average of 12.5 feet. The applicant seeks a variance of 7.5 feet, or thirty-eight percent.

10. The applicant argued that his lot area is less than that required by the current Zoning Regulations. The existing lot occupancy is less than the sixty percent allowed. He cannot build to the front of the dwelling because of a fifteen foot building restriction line.

11. The Board of Zoning Adjustment has the power to grant variances under Paragraph 8207.11 of the D.C. Zoning Regulations which provides that where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the owner of such property, the Board may authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

12. The applicant argued that the existing rear yard is of little use to him because it is too far removed from the kitchen which is the activity center for the house. The ten foot vertical separation from the kitchen entrance to the rear yard level prevents use of the rear yard in conjunction with kitchen activities.

13. The applicant's use of the rear yard is further restricted because of its shape, size and lack of sunlight. Due to the property's location in the subject square, a public alley adjoins the rear yard at a diagonal thus reducing its size and giving it a wedge shape. An existing driveway further reduces the usable size of the rear yard by approximately forty percent.

14. The remaining usable area of the rear yard receives minimal sunlight due to the orientation of the house with respect to the sun, the height of the surrounding buildings and the presence of a large existing tree. The applicant considers the tree to be an asset to the neighborhood and does not wish to remove several times but has not supported plant life.

15. The proposed deck has been designed to eliminate these problems and provide the applicant the full use and enjoyment of his property. Were it not for the irregular shape of the rear yard the applicant could build the proposed deck without a rear yard variance. The applicant considered and rejected alternatives such as decreasing the size of the deck or lowering the upper level to four feet or less, thus eliminating the need for variance relief. Such alternatives would not provide the kind of outdoor space that the applicant desires.

16. A neighbor testified in opposition to the application. The neighbor's property is directly across the public alley from the applicant's rear yard. The neighbor's objections included loss of privacy due to the applicant's view of neighboring property from the upper deck level. Other objections includes loss of visual openness for all properties whose rear yards abut the subject alley and loss of visibility for trucks turning into the subject alley. The opposition further testified that the subject property had a back porch that extended up two stories, which the applicant had enclosed. Other residents removed the porches but kept the floor to have a deck space. The applicant chose to enclose the porches and now also seeks a deck.

17. There were two letters of opposition in the record from neighbors across the alley. Their opposition was based on a loss of privacy and a loss of light and air that they expected to result from the proposed deck.

18. There were twenty-two form letters of support in the record from neighbors in the subject square. The support was based on the opinion that the deck would not be detrimental to neighboring property or to the public interest.

19. The Board, in addressing the concerns of the opposition, finds that a loss of light and air is very conjectural, as is the issue of the impediment in alley access resulting from the construction of the rear deck. These issues are not dispositive of the application.

20. Advisory Neighborhood Commission 3B made no recommendation on the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape, or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan.


The Board concludes that the applicant has not met this burden of proof in showing a practical difficulty inherent in the property. The irregular shape and small size of the lot, although exceptional conditions, do not create a practical difficulty in the use of the property for its intended R-3 residential purpose. The applicant has other alternatives, although less desirable to him. Further, problems with nurturing plants do not constitute a practical difficulty in the sense defined by the Zoning Regulations. Such are personal reasons and do not support a variance.

The Board further concludes that the granting of a thirty-eight percent variance from the rear yard requirements of the R-3 District to permit the proposed elevated deck is too great and would cause substantial detriment to the public good and would substantially impair the intent and purpose of the zone plan. Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 3-0 (Douglas J. Patton, Carrie L. Thornhill and
 Maybelle T. Bennett to deny; William F.
 McIntosh and Charles R. Norris not voting,
 not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 29 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."

14091 order/KATE12